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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,084	01/18/2002	Frank Jay Hague	6653.36001	9828

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,084

Applicant(s)

HAGUE, FRANK JAY

Examiner

Steven L. Weinstein

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ganoe ('528) in view of Lynch ('715) or vice versa, both further in view of applicant's admission of the prior art, further in view of Sherrill ('653), Frudakis et al ('474), Anderson et al ('420) and Axelrod ('069), further in view of Berends ('642) and Rodriquez (D '770), essentially for the reasons given in the Office action mailed April 21, 2004. Berends is relied on as further evidence that it was conventional to fold animal skin into a desired shaped product whereas Rodriquez (D '770) is relied on as further evidence that it was conventional to shape animal skin into the shape of an animal's ear.

In regard to new claims 10-17, which recite the number of edges (presumably after folding) , the shape of various portions, and the origin of the skin, these are all seen to have been obvious matters of choice and/or design once the art taken as a whole teaches animal skin can be folded into layers and given any shape one desires.

All of applicant's remarks filed September 27, 2004 have been fully and carefully considered but have not been found to be convincing. It is urged that none of the references teach an "artificial" ear. It is assumed this means an article that looks like an ear. Once it was known in the art to shape animal skin into various shapes, the particular recognizable shape one chooses to impart to the skin is seen to have been an obvious matter of choice and/or design.

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This is especially true since the art teaches that pets have favored real ears because of their shape and that skin shaped like ears is even conventional. It is urged that Rodriguez does not teach an artificial ear. Rodriguez titles his design cow ear-shaped rawhide dog chew. This can only mean that the rawhide has been given a cow ear shape. If the dog chew was an actual ear, the title would not use the word shaped. It would just be a cow ear dog chew. It is also urged that none of the references to teach folding skin to make an ear-shaped treat. If one reference clearly taught this, then the rejection would have been under USC 102, anticipation instead of 35 USC 103, obviousness. It is not clear how the animal skin of Rodriguez et al has been manipulated to impart its shape. In any case, the art clearly and unequivocally teaches folded skin which has imparted to it various' shapes so that the art fairly teaches that one could impart any recognizable shape one desires. In regard to the origin of the skin, as noted above, this is seen to have been an obvious matter of choice. The art teaches using skin to make recognizable shapes. The shapes are seen to have been obvious in view of the art taken as a whole and the source of the skin is seen to have been an obvious matter of choice. New claims 10-17 have been treated above.

Applicant's declaration filed September 27, 2004, presumably under 37 CFR 1.132, has been fully and carefully considered but is not seen to be sufficient to overcome the rejection of the claims under 35 USC 103. The declaration fails to set forth facts. The declaration instead is directed primarily to a background of the invention and applicant's opinion that pigskin is not easy to process as rawhide. However, neither the declaration nor the specification nor the claims indicate what applicant has done differently that would allow one to shape pigskin that was not done in the prior art. In fact, the urgings are not commensurate in scope with the claims. The declaration makes reference to molding equipment but the claims are article claims and are silent

as to any molding. At most, the claims recite that the skin has been folded into layers. In fact, for purposes of an article claim, it would not appear to make any difference if the article had layers derived from folding a single sheet or by bonding several sheets. Note, two, there is nothing in the claims that state the sheets are bonded together.

Any inquiry concerning this communication from the examiner should be directed to Steven L. Weinstein whose telephone number is (571) 272-1410. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S.L. Weinstein/dh  
January 11, 2005

Steven Weinstein  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
1/15/05